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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A11-1633**

In re the Marriage of:  
Matthew John Orvedahl, petitioner,  
Appellant,

vs.

McKenzie Ann Orvedahl,  
Respondent.

**Filed June 4, 2012  
Affirmed  
Hudson, Judge**

Carlton County District Court  
File No. 09-FA-08-3326

Matthew John Orvedahl, Moose Lake, Minnesota (pro se appellant)

McKenzie Ann Orvedahl, Duluth, Minnesota (pro se respondent)

Considered and decided by Wright, Presiding Judge; Hudson, Judge; and Collins,  
Judge.\*

**UNPUBLISHED OPINION**

**HUDSON, Judge**

Appellant husband challenges the district court's denial of his motion to modify  
his spousal-maintenance obligation, arguing that his decrease in income amounts to a

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\* Retired judge of the Minnesota Court of Appeals, serving as judge of the Minnesota  
Court of Appeals by appointment pursuant to Minn. Const. art. VI, § 10.

substantial change in circumstances rendering the existing award unreasonable and unfair and that the district court improperly considered his current wife's contribution to household expenses in determining his ability to pay maintenance. Because we conclude that the district court did not abuse its discretion by declining to modify maintenance based on the parties' stipulated judgment and a contribution of husband's wife to household expenses, we affirm.

### **FACTS**

In December 2008, the district court dissolved the four-year marriage of Matthew John Orvedahl (husband) and McKenzie Ann Orvedahl (wife) by stipulated judgment. Husband was represented by counsel; wife appeared pro se. The judgment granted the parties joint legal custody of their minor children, ages five, three, and two; wife was granted sole physical custody. At that time, husband owned an insulation business and had a monthly gross income of \$6,068; wife was not employed outside the home but had previous administrative-support experience.

The judgment stated that the parties currently agreed as to child support, but either party could later move to establish guidelines support. It provided, in part: "Spousal maintenance is reserved for a period of 48 months immediately following entry of judgment . . . ; in the event that [husband's] monthly basic child support is lowered, he shall pay to [wife] such sums per month so that the amount of child support and spousal maintenance equal the sum of \$2,500 per month."

Nine months later, husband moved to decrease support through the expedited child-support process, based on his assertion of decreased income. A child-support

magistrate (CSM) denied the motion, finding that, because the existing order required husband to pay a combined total of \$2,500 monthly as child support and spousal maintenance, and because determining husband's gross income for support purposes would require a deduction of maintenance paid, in order to address husband's support obligation, he would initially need to move in district court to modify maintenance. The CSM found that, in any event, husband's gross income had not decreased and that there had been no substantial change in circumstances rendering the existing support order unreasonable and unfair.

Husband moved for district court review of the CSM's order and to modify maintenance. The district court construed the motion as a request, in part, to set guidelines child support as permitted by the judgment. The district court established a basic and medical support obligation for husband of \$1,518 and found that wife was therefore entitled to maintenance of \$982 (\$2,500 less \$1,518).

In October 2010, husband moved again to decrease support. The CSM denied the motion, finding that, although his income for child support had decreased, the resulting basic support obligation would not be 20% higher or lower than his current obligation, and he had failed to establish a substantial change in circumstances making the existing support order unreasonable and unfair. *See* Minn. Stat. § 518A.39, subd. 2(b)(1) (2010) (stating current child-support order is rebuttably presumed unreasonable and unfair if current circumstances result in calculated order that is at least 20% higher or lower and \$75 higher or lower than current order).

In March 2011, husband moved to decrease support for the third time. The CSM found that, based on husband's gross monthly income and monthly living expenses, his parental income for determining support would result in a reduced basic guidelines support obligation, but that, based on the parties' agreement and the express terms of the judgment, an upward deviation of support was warranted. The CSM therefore ordered that husband's combined spousal-maintenance and child-support obligation continue to be \$2,500.

Husband then moved in district court to decrease maintenance. Wife opposed the motion based on the parties' stipulated agreement and the additional argument that husband retained the ability to pay maintenance as ordered, as evidenced by his lifestyle and his current wife's contribution to household expenses.

The district court denied husband's motion. The district court found that, at the time of dissolution, when only husband was represented by counsel, the parties entered a stipulation by which wife would receive a set amount for four years as a combination of maintenance and support. The district court found that wife had a gross monthly income of \$2,078, with \$2,694 of reasonable monthly living expenses, with her partner contributing \$674 to those expenses. The district court found that husband had a current gross income of \$3,360, with reasonable monthly living expenses of \$2,716, and that husband acknowledged a contribution of his current wife to his living expenses, but he did not present evidence on the amount of that contribution. The district court therefore concluded that, although husband's income had decreased since the judgment, based on

the parties' current circumstances and the stipulated judgment, the existing maintenance award was not unreasonable and unfair. Husband's pro se appeal follows.

## D E C I S I O N

This court reviews a district court's decision relating to maintenance modification for an abuse of discretion. *Hecker v. Hecker*, 568 N.W.2d 705, 709–10 (Minn. 1997). A district court abuses its discretion if it resolves a matter in a manner “that is against logic and the facts on record” or if it improperly applies the law. *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997); *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984).

A district court may modify maintenance if the party seeking modification shows a substantial change in circumstances that makes the existing award unreasonable and unfair, based on one or more of several factors, including a party's substantially increased or decreased income. Minn. Stat. § 518A.39, subd. 2(a) (2010). In considering a motion to modify maintenance, the district court applies all relevant factors, including “the ability of the spouse from whom maintenance is sought to meet needs while meeting those of the spouse seeking maintenance.” *Id.*, subd. 2(d) (2010); Minn. Stat. § 518.552, subd. 2(g) (2010). Even if a substantial change in circumstances has occurred, the party seeking maintenance modification must also show “that the change has the effect of rendering the original maintenance award both unreasonable and unfair.” *Beck v. Kaplan*, 566 N.W.2d 723, 726 (Minn. 1997).

Husband alleges that the district court abused its discretion by denying his motion to reduce maintenance, arguing that the judgment does not preclude maintenance modification; he is unable to meet that obligation although he works more than full-time;

wife has a reduced need for maintenance because she is living with a partner who contributes to household expenses; and husband's current spouse has no obligation to help wife meet her expenses. Because a stipulation "represents the parties' voluntary acquiescence in an equitable settlement," the district court carefully exercises its discretion in deciding whether to modify a stipulated maintenance order and "only reluctantly alter[s] the terms of a stipulation governing maintenance." *Claybaugh v. Claybaugh*, 312 N.W.2d 447, 449 (Minn. 1981). The district court found that the parties negotiated a settlement by which wife would receive a set amount over a four-year period, including both maintenance and support, and that husband, who was the only party represented by counsel, agreed to this settlement. The district court also found that husband's income had decreased, but that in light of the parties' current circumstances and the stipulated terms of the judgment, the current maintenance award was not unreasonable and unfair. We agree and conclude that, under these circumstances, the district court did not abuse its discretion by declining to modify the express terms of the parties' settlement agreement. *See Claybaugh*, 312 N.W.2d at 449.

Husband also challenges the district court's conclusion that it is appropriate to consider the contribution of husband's current wife to household expenses in determining his ability to pay maintenance.<sup>1</sup> But in considering a motion to modify maintenance, the district court may consider a current spouse's income with respect to an obligor's

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<sup>1</sup> Husband provided an affidavit listing reasonable monthly expenses to the district court. He has not alleged that the district court's finding of his expenses is overstated because it includes his current wife's expenses or understated because some of his expenses may be paid for by his current wife.

monthly expenses attributable to both the obligor and the current spouse. *Wagstrom v. Wagstrom*, 394 N.W.2d 841, 844 n.3 (Minn. App. 1986), *review denied* (Minn. Nov. 26, 1986).<sup>2</sup> “The income of a payor’s new spouse should, at a minimum, affect the living expenses claimed by the payor. A share of those expenses, shared equally or in proportion to income, should be attributed to the new spouse or roommate, if not married.” 14 Martin L. Swaden & Linda A. Olup, *Minnesota Practice* § 8:12 (J) (3d ed. 2008). Therefore, the district court did not err by concluding that husband’s current wife’s contribution to household expenses could be considered in determining his ability to meet his needs while meeting those of wife. *Cf. Erlandson v. Erlandson*, 318 N.W.2d 36, 39–40 (Minn. 1982) (stating that, in awarding maintenance, the district court balances recipient’s financial needs and ability to meet those needs against obligor’s financial condition).

The district court found that husband did not refute wife’s claims of husband’s lifestyle and that, although husband acknowledged that his current wife contributes to household expenses, he did not provide evidence as to the amount of that contribution. In the absence of such evidence, the district court did not err by failing to rule in husband’s favor. *See Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003) (stating that a party who does not submit evidence to allow court to fully address question may not complain that court failed to rule in that party’s favor), *review denied* (Minn. Nov. 25,

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<sup>2</sup> We note that, in considering a motion to modify child support, a district court “shall not consider the financial circumstances of each party’s spouse.” Minn. Stat. § 518A.39, subd. 2(d)(1). But the relevant statute does not contain the same restriction relating to a motion to modify maintenance. *Id.*, subd. 2(d).

2003). We note that, while the district court made findings as to the contribution of wife's partner to household expenses, it did not do so for the contribution of husband's current wife to those expenses. But we conclude that under these circumstances, when the district court's order relied largely on the terms of the parties' stipulated judgment, we need not remand for more specific findings on this issue. *See Grein v. Grein*, 364 N.W.2d 383, 387 (Minn. 1985) (concluding that although appellate court could remand for findings, remand would result in findings that comport with the language of the statute and would therefore not further legislative purpose).

**Affirmed.**